

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1290 be amended to read as follows:

1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:

3           "SECTION 1. IC 9-13-2-131, AS AMENDED BY P.L.1-2000,  
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2000]: Sec. 131. "Prima facie evidence of intoxication"  
6 includes evidence that at the time of an alleged violation the person had  
7 an alcohol concentration equivalent to at least ~~ten-hundredths (0.10)~~  
8 **nine-hundredths (0.09)** gram of alcohol per:

- 9           (1) one hundred (100) milliliters of the person's blood; or  
10           (2) two hundred ten (210) liters of the person's breath.

11           SECTION 2. IC 9-13-2-151, AS AMENDED BY P.L.1-2000,  
12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2000]: Sec. 151. "Relevant evidence of intoxication" includes  
14 evidence that at the time of an alleged violation a person had an alcohol  
15 concentration equivalent to at least five-hundredths (0.05) gram, but  
16 less than ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of  
17 alcohol per:

- 18           (1) one hundred (100) milliliters of the person's blood; or  
19           (2) two hundred ten (210) liters of the person's breath.

20           SECTION 3. IC 9-24-6-15, AS AMENDED BY P.L.1-2000,  
21 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2000]: Sec. 15. A person who operates a commercial motor  
23 vehicle with an alcohol concentration equivalent to at least  
24 four-hundredths (0.04) gram but less than ~~ten-hundredths (0.10)~~  
25 **nine-hundredths (0.09)** gram of alcohol per:

- 26           (1) one hundred (100) milliliters of the person's blood; or  
27           (2) two hundred ten (210) liters of the person's breath;

1 commits a Class C infraction.

2 SECTION 4. IC 9-30-5-1, AS AMENDED BY P.L.1-2000,  
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2000]: Sec. 1. (a) A person who operates a vehicle with an  
5 alcohol concentration equivalent to at least ~~ten-hundredths (0.10)~~  
6 **nine-hundredths (0.09)** gram of alcohol but less than  
7 fifteen-hundredths (0.15) gram of alcohol per:

8 (1) one hundred (100) milliliters of the person's blood; or

9 (2) two hundred ten (210) liters of the person's breath;

10 commits a Class C misdemeanor.

11 (b) A person who operates a vehicle with an alcohol concentration  
12 equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

13 (1) one hundred (100) milliliters of the person's blood; or

14 (2) two hundred ten (210) liters of the person's breath;

15 commits a Class A misdemeanor.

16 (c) A person who operates a vehicle with a controlled substance  
17 listed in schedule I or II of IC 35-48-2 or its metabolite in the person's  
18 body commits a Class C misdemeanor.

19 (d) It is a defense to subsection (c) that the accused person  
20 consumed the controlled substance under a valid prescription or order  
21 of a practitioner (as defined in IC 35-48-1) who acted in the course of  
22 the practitioner's professional practice.

23 SECTION 5. IC 9-30-5-4, AS AMENDED BY P.L.1-2000,  
24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2000]: Sec. 4. (a) A person who causes serious bodily injury  
26 to another person when operating a motor vehicle:

27 (1) with an alcohol concentration equivalent to at least  
28 ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol  
29 per:

30 (A) one hundred (100) milliliters of the person's blood; or

31 (B) two hundred ten (210) liters of the person's breath;

32 (2) with a controlled substance listed in schedule I or II of  
33 IC 35-48-2 or its metabolite in the person's body; or

34 (3) while intoxicated;

35 commits a Class D felony. However, the offense is a Class C felony if,  
36 within the five (5) years preceding the commission of the offense, the  
37 person had a prior unrelated conviction under this chapter.

38 (b) A person who violates subsection (a) commits a separate  
39 offense for each person whose serious bodily injury is caused by the  
40 violation of subsection (a).

41 (c) It is a defense under subsection (a)(2) that the accused person  
42 consumed the controlled substance under a valid prescription or order  
43 of a practitioner (as defined in IC 35-48-1) who acted in the course of  
44 the practitioner's professional practice.

45 SECTION 6. IC 9-30-5-5, AS AMENDED BY P.L.1-2000,  
46 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
47 JULY 1, 2000]: Sec. 5. (a) A person who causes the death of another  
48 person when operating a motor vehicle:

49 (1) with an alcohol concentration equivalent to at least  
50 ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol  
51 per:

- 1 (A) one hundred (100) milliliters of the person's blood; or  
 2 (B) two hundred ten (210) liters of the person's breath;  
 3 (2) with a controlled substance listed in schedule I or II of  
 4 IC 35-48-2 or its metabolite in the person's blood; or  
 5 (3) while intoxicated;

6 commits a Class C felony. However, the offense is a Class B felony if,  
 7 within the five (5) years preceding the commission of the offense, the  
 8 person had a prior unrelated conviction under this chapter.

9 (b) A person who violates subsection (a) commits a separate  
 10 offense for each person whose death is caused by the violation of  
 11 subsection (a).

12 (c) It is a defense under subsection (a)(2) that the accused person  
 13 consumed the controlled substance under a valid prescription or order  
 14 of a practitioner (as defined in IC 35-48-1) who acted in the course of  
 15 the practitioner's professional practice.

16 SECTION 7. IC 9-30-5-8.5, AS AMENDED BY P.L.1-2000,  
 17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2000]: Sec. 8.5. (a) A person who:

- 19 (1) is less than twenty-one (21) years of age; and  
 20 (2) operates a vehicle with an alcohol concentration equivalent  
 21 to at least two-hundredths (0.02) gram but less than  
 22 ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol  
 23 per:

- 24 (A) one hundred (100) milliliters of the person's blood; or  
 25 (B) two hundred ten (210) liters of the person's breath;  
 26 commits a Class C infraction.

27 (b) In addition to the penalty imposed under this section, the court  
 28 may recommend the suspension of the driving privileges of the  
 29 operator of the vehicle for not more than one (1) year."

30 Page 3, between lines 7 and 8, begin a new paragraph and insert:  
 31 "SECTION 8. IC 9-30-6-15, AS AMENDED BY P.L.1-2000,  
 32 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2000]: Sec. 15. (a) At any proceeding concerning an offense  
 34 under IC 9-30-5 or a violation under IC 9-30-15, evidence of the  
 35 alcohol concentration that was in the blood of the person charged with  
 36 the offense:

- 37 (1) at the time of the alleged violation; or  
 38 (2) within the time allowed for testing under section 2 of this  
 39 chapter;

40 as shown by an analysis of the person's breath, blood, urine, or other  
 41 bodily substance is admissible.

42 (b) If, in a prosecution for an offense under IC 9-30-5, evidence  
 43 establishes that:

- 44 (1) a chemical test was performed on a test sample taken from  
 45 the person charged with the offense within the period of time  
 46 allowed for testing under section 2 of this chapter; and  
 47 (2) the person charged with the offense had an alcohol  
 48 concentration equivalent to at least ~~ten-hundredths (0.10)~~  
 49 **nine-hundredths (0.09)** gram of alcohol per:

1 (A) one hundred (100) milliliters of the person's blood at the  
 2 time the test sample was taken; or

3 (B) two hundred ten (210) liters of the person's breath;  
 4 the trier of fact shall presume that the person charged with the offense  
 5 had an alcohol concentration equivalent to at least ~~ten-hundredths~~  
 6 ~~(0.10)~~ **nine-hundredths (0.09)** gram of alcohol per one hundred (100)  
 7 milliliters of the person's blood or per two hundred ten (210) liters of  
 8 the person's breath at the time the person operated the vehicle.  
 9 However, this presumption is rebuttable.

10 (c) If evidence in an action for a violation under IC 9-30-5-8.5  
 11 establishes that:

12 (1) a chemical test was performed on a test sample taken from  
 13 the person charged with the violation within the time allowed for  
 14 testing under section 2 of this chapter; and

15 (2) the person charged with the violation:

16 (A) was less than twenty-one (21) years of age at the time  
 17 of the alleged violation; and

18 (B) had an alcohol concentration equivalent to at least  
 19 two-hundredths (0.02) gram of alcohol per:

20 (i) one hundred (100) milliliters of the person's blood;  
 21 or

22 (ii) two hundred ten (210) liters of the person's breath;  
 23 at the time the test sample was taken;

24 the trier of fact shall presume that the person charged with the violation  
 25 had an alcohol concentration equivalent to at least two-hundredths  
 26 (0.02) gram of alcohol per one hundred (100) milliliters of the person's  
 27 blood or per two hundred ten (210) liters of the person's breath at the  
 28 time the person operated the vehicle. However, the presumption is  
 29 rebuttable.

30 (d) If, in an action for a violation under IC 9-30-15, evidence  
 31 establishes that:

32 (1) a chemical test was performed on a test sample taken from  
 33 the person charged with the offense within the time allowed for  
 34 testing under section 2 of this chapter; and

35 (2) the person charged with the offense had an alcohol  
 36 concentration equivalent to at least four-hundredths (0.04) gram  
 37 of alcohol per:

38 (A) one hundred (100) milliliters of the person's blood; or

39 (B) two hundred ten (210) liters of the person's breath;

40 at the time the test sample was taken;

41 the trier of fact shall presume that the person charged with the offense  
 42 had an alcohol concentration equivalent to at least four-hundredths  
 43 (0.04) gram of alcohol by weight in grams per one hundred (100)  
 44 milliliters of the person's blood or per two hundred ten (210) liters of  
 45 the person's breath at the time the person operated the vehicle.  
 46 However, this presumption is rebuttable.

47 SECTION 9. IC 9-30-10-4, AS AMENDED BY P.L.1-2000,  
 48 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 49 JULY 1, 2000]: Sec. 4. (a) A person who has accumulated at least two  
 50 (2) judgments within a ten (10) year period for any of the following

violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Reckless homicide resulting from the operation of a motor vehicle.

(2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

(3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.

(4) Operation of a vehicle while intoxicated resulting in death.

(5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.

(6) After June 30, 1997, **and before July 1, 2000**, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

**(7) After June 30, 2000, operation of a vehicle with an alcohol concentration equivalent to at least nine-hundredths (0.09) gram of alcohol per:**

**(A) one hundred (100) milliliters of the blood; or**

**(B) two hundred ten (210) liters of the breath;**

**resulting in death.**

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Operation of a vehicle while intoxicated.

(2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, **and before July 1, 2000**, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

**(4) After June 30, 2000, operation of a vehicle with an alcohol concentration equivalent to at least nine-hundredths (0.09) gram of alcohol per:**

**(A) one hundred (100) milliliters of the blood; or**

**(B) two hundred ten (210) liters of the breath.**

(5) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991) or IC 9-24-18-5(b).

~~(5)~~ (6) Operating a motor vehicle without ever having obtained

1 a license to do so.

2 ~~(6)~~ (7) Reckless driving.

3 ~~(7)~~ (8) Criminal recklessness involving the operation of a motor  
4 vehicle.

5 ~~(8)~~ (9) Drag racing or engaging in a speed contest in violation of  
6 law.

7 ~~(9)~~ (10) Violating IC 9-4-1-40 (repealed July 1, 1991),  
8 IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1),  
9 IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2),  
10 IC 9-26-1-3, or IC 9-26-1-4.

11 ~~(10)~~ (11) Any felony under an Indiana motor vehicle statute or  
12 any felony in the commission of which a motor vehicle is used.

13 A judgment for a violation enumerated in subsection (a) shall be added  
14 to the violations described in this subsection for the purposes of this  
15 subsection.

16 (c) A person who has accumulated at least ten (10) judgments  
17 within a ten (10) year period for any traffic violation, except a parking  
18 or an equipment violation, of the type required to be reported to the  
19 bureau, singularly or in combination, not arising out of the same  
20 incident, and with at least one (1) violation occurring after March 31,  
21 1984, is a habitual violator. However, at least one (1) of the judgments  
22 must be for a violation enumerated in subsection (a) or (b). A judgment  
23 for a violation enumerated in subsection (a) or (b) shall be added to the  
24 judgments described in this subsection for the purposes of this  
25 subsection.

26 SECTION 10. IC 9-30-10-9, AS AMENDED BY P.L.1-1999,  
27 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2000]: Sec. 9. (a) If a court finds that a person:

29 (1) is a habitual violator under section 4(c) of this chapter;

30 (2) has not been previously placed on probation under this  
31 section by a court;

32 (3) operates a vehicle for commercial or business purposes, and  
33 the person's mileage for commercial or business purposes:

34 (A) is substantially in excess of the mileage of an average  
35 driver; and

36 (B) may have been a factor that contributed to the person's  
37 poor driving record; and

38 (4) does not have:

39 (A) a judgment for a violation enumerated in section 4(a) of  
40 this chapter; or

41 (B) at least three (3) judgments (singularly or in  
42 combination and not arising out of the same incident) of the  
43 violations enumerated in section 4(b) of this chapter;

44 the court may place the person on probation in accordance with  
45 subsection (c).

46 (b) If a court finds that a person:

47 (1) is a habitual violator under section 4(b) of this chapter;

48 (2) has not been previously placed on probation under this  
49 section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (c). However, if the person has any judgments for operation of a vehicle **before July 1, 2000**, while intoxicated or with **an alcohol concentration equivalent to** at least ten-hundredths percent ~~(0.10%)~~ **(0.10) gram of alcohol by weight in grams in per** one hundred (100) milliliters of the blood, or two hundred ten (210) liters of the breath, **or for the operation of a vehicle after June 30, 2000, while intoxicated or with an alcohol concentration equivalent to at least nine-hundredths (0.09) gram of alcohol per one hundred (100) milliliters of the blood, or two hundred ten (210) liters of the breath**, the court, before the court places a person on probation under subsection (c), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by the division of mental health.

(c) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;

(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

(A) commercial or business purposes or other employment related driving;

(B) specific purposes in exceptional circumstances; and

(C) rehabilitation programs;

(7) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

(8) may impose other appropriate conditions of probation.

(d) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;

(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or

convictions under section 4(b)(4) of this chapter that resulted from driving on a suspended license that was suspended for:

- (A) the commission of infractions only; or
- (B) previously driving on a suspended license;
- (4) has not been previously placed on probation under this section by a court; and
- (5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (c).

SECTION 11. IC 14-15-8-5, AS AMENDED BY P.L.1-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. As used in this chapter, "prima facie evidence of intoxication" includes evidence that at the time of an alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 12. IC 14-15-8-6, AS AMENDED BY P.L.1-2000, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. As used in this chapter, "relevant evidence" includes evidence that at the time of the alleged violation there was an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least five-hundredths (0.05) gram and less than ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 13. IC 14-15-8-8, AS AMENDED BY P.L.1-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat:

- (1) with an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol per:

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath; or

- (2) while intoxicated;

commits a Class C misdemeanor.

- (b) The offense is a Class D felony if:

- (1) the person has a previous conviction under:

- (A) IC 14-1-5 (repealed); or
- (B) this chapter; or

- (2) the offense results in serious bodily injury to another person.

(c) The offense is a Class C felony if the offense results in the death of another person."

Page 5, between lines 29 and 30, begin a new paragraph and insert:



"SECTION 14. IC 35-33-1-6, AS AMENDED BY P.L.1-2000, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. A law enforcement agency may use the following chart to determine the minimum number of hours that a person arrested for an alcohol-related offense should be detained before his release pending trial:

BLOOD OR BREATH ALCOHOL LEVEL IN  
HOURS AFTER INITIAL READING IS TAKEN

GRAMS	1	2	3	4	5	6	7	8	9	10	11	12	13	14
<b>.09</b>	<b>.075</b>	<b>.06</b>	<b>.045</b>	<b>.03</b>	<b>.015</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>
<b>.10</b>	<b>.085</b>	<b>.07</b>	<b>.055</b>	<b>.04</b>	<b>.025</b>	<b>.01</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>	<b>.000</b>	<b>.00</b>
.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00	.000	.00
.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00
.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00
.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00
.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00
.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00
.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00
.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00
.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00
.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00
.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00
.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01
.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02
.24	.225	.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03
.25	.235	.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04
.26	.245	.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05

Note: In order to find when a person will reach the legal blood or breath alcohol level, find the blood or breath alcohol level reading in the left hand column, go across and find where the blood or breath alcohol level reading is an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to below ~~ten-hundredths (0.10)~~ **nine-hundredths (0.09)** gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath, then read up that column to find the minimum number of hours before the person can be released."

Renumber all SECTIONS consecutively.

(Reference is to HB 1290 as printed January 28, 2000.)

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Representative KRUSE